



100 Meridian Centre
Suite 300
Rochester, NY 14618-3979

Sr. Director - Regulatory Affairs & Contract
Management
Phone: (585) 785-5837
Fax: (585) 785-5838
mnighan@afsnetworks.com

March 2, 2009
Via ECFS

Federal Communications Commission
Attn. Marlene H. Dortch
Office of the Secretary
445 12th. Street, SW
Suite TW-A325
Washington, DC 20554

**Re: CY 2008 Annual CPNI Certification
EB Docket No. 06-36
(AMENDED)**

Dear Secretary Dortch:

As required by 47 C.F.R. §64.2009(e) **American Fiber Systems, Inc.** hereby submits an Amended CPNI compliance certification for Calendar Year 2008.

Sincerely,

A handwritten signature in black ink that reads "Michael J. Nighan". The signature is fluid and cursive, with the first name "Michael" and last name "Nighan" clearly legible.

Michael J. Nighan
Sr. Director - Regulatory Affairs & Contract Management

Attachment

xc: Best Copy & Printing (FCC@BCPIWEB.COM)
FCC, Enforcement Bureau, Telecommunications Consumers Division

**AMENDED
AMERICAN FIBER SYSTEMS, INC.
ANNUAL 64.2009(e) CPNI
CERTIFICATE OF COMPLIANCE
FOR CY 2008
EB DOCKET 06-36**

Date Filed: Mar. 2, 2009
Form 499 Filer ID: 821650, 823968, 824528
Name of Signatory: Gita Ramachandran
Title of Signatory: Chief Financial Officer

I, Gita Ramachandran, certify that I am an officer of the American Fiber Systems, Inc.¹ named above, and acting as an agent of the company I have personal knowledge that the company has established operating procedures that are adequate to ensure compliance with the Commission's Customer Proprietary Network Information rules, 47 C.F.R. §64, Subpart U.

Attached to this certification is an accompanying statement explaining how the company's procedures ensure that the company was in compliance with the requirements set forth in Section 64.2001 *et seq.* of the Commission's rules during CY2008.

The company has not taken any actions against data brokers in the past year nor have any pretexters attempted to access CPNI.

The company has not received any customer complaints in the past year concerning unauthorized release of CPNI.



Gita Ramachandran
Chief Financial Officer

Date: March 2, 2009

¹ Neither Idacomm, Inc. nor American Fiber Systems of Georgia, Inc. offered services in calendar year 2008. All CPNI in the possession of both companies was transferred to American Fiber Systems, Inc. Accordingly, this CPNI certifications covers all three entities.

AMERICAN FIBER SYSTEMS, INC.¹

Amended

CY 2008 Annual Statement of CPNI Operating Procedures

Compliance with 47 C.F.R. Section 64.2005 through Section 64.2011

1. During CY 2008 American Fiber Systems, Inc. (“AFS”) offered and provided High Capacity Competitive Local Exchange Carrier telecommunications services, such services falling into the “local” category of service. AFS marketed and provided such service exclusively to enterprise and carrier customers and did not market or provide service to residential customers. CPNI was used by AFS exclusively, and not by third parties or affiliates, to market and to provide services within the “local” category of service and AFS did not disclose or permit access to CPNI for the marketing or provision of services outside of the “local” category. Accordingly, AFS does not use or permit access to CPNI to market any services outside of the “total services approach” as specified in 47 CFR §64.2005 and did not engage in any marketing campaigns.
2. Consistent with the Commission’s rules, AFS uses, discloses, and permits access to CPNI, without customer approval, for the purposes of: provisioning inside wiring installing, maintaining and repairing customer services, and protecting the rights or property of AFS, or protecting the users of AFS services and other carriers from fraudulent, abusive or unlawful use of services.
3. AFS did not market to customers that call and make inquiries concerning their account information. But should the Company choose to do so in the future, it will abide by all applicable rules.
4. None of the services provided by AFS generate call detail records. In order to authenticate a customer’s identity prior to disclosing CPNI, AFS authenticates the customer using a variety of methods. Direct customer access to CPNI was available only to the customer contact-of-record. In addition, the contact-of-record was required to provide a combination of a randomly-generated password, customer account number and customer invoice number. AFS has implemented procedures to inform customers of change of address, e-mail and other changes to account information in a manner that conforms with the relevant rules.

¹ Neither Idacomm, Inc. nor American Fiber Systems of Georgia, Inc. offered services in calendar year 2008. All CPNI in the possession of both companies was transferred to American Fiber Systems, Inc. Accordingly, this CPNI certifications covers all three entities.

5. AFS has required all employees to sign an Employee Nondisclosure, Noncompetition and Assignment Agreement ("Agreement") as a condition of employment or continued employment. Under the terms of the Agreement, AFS employees are prohibited from divulging confidential information of any customer to any individual or entity outside of AFS. This provision is binding upon employees even after their termination of employment. Furthermore, AFS employees are required to devote their full time efforts to the business of AFS and are explicitly prohibited from engaging in any other business activity that would conflict with their duties to AFS. In the event that an employee violates the Agreement AFS may terminate the employee in addition to any other remedies available at law or in equity.

6. During CY2008 AFS took, and continues to take, reasonable measures to discover and protect against attempts to gain unauthorized access to CPNI:

a) For example, through the use of "firewall" AFS blocks any unauthorized attempts to gain access to corporate systems but AFS was not aware of any such attempts related to its systems that house customers' CPNI. In addition, via encryption of CPNI, AFS further reduced the possibility that usable CPNI data could be accessed illegally.

b) Internal access to CPNI was restricted to company employees on a "need-to-know" basis.

7. Although no CPNI breaches occurred during CY2008, AFS is aware of and will comply with all requirements of 47 C.F.R. Section 64.2011 to notify the appropriate agencies and, prior to notifying the impacted customer(s) of any security breach involving CPNI, wait the prescribed timeframes. AFS will maintain the appropriate records regarding any breaches, should they occur, for a period of two years.

8. During CY2008 AFS received no complaints relating to the unauthorized release of CPNI.